THE HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION NO.3002 of 2006

DATED: 24.08.2006

Between:
I.Rajagopal. .. PETITIONER

Versus

The Chairman, The District Level Committee
of Sand Auction, Zilla Parishad, Vizianagaram,
Vizianagaram District and nine others. .. RESPONDENTS

WRIT PETITION NO.3002 of 2006

ORDER:

Heard the learned counsel on record.

2. The matter is appearing under the caption of interlocutory, but the counsel on record requests for final disposal of the Writ Petition and hence the Writ Petition itself is being disposed of finally.

3. The learned counsel for the writ petitioner would submit that the petitioner is entitled to carry on quarry operations from Vegavathi river of Golladhi village, but the Sarpanch and his followers are unauthorisedly interfering with such quarry operations and in such circumstances the petitioner is left with no other option except to approach this Court praying for appropriate directions.

4. The learned Government Pleader for Panchayat Raj would submit that in the light of the stand taken by Gram Panchayat Golladhi, if the petitioner is not carrying on quarry operations in accordance with the terms and conditions agreed upon, respondents 3 and 4 may have to initiate appropriate action and hence, liberty be given to respondents 3 and 4 to take appropriate steps in this

regard in the event that they being satisfied that the petitioner is not carrying on with the quarry operations in accordance with the terms and conditions agreed upon.

5. Sri Sridhar representing Smt.Bhaskara Lakshmi would maintain that Gram Panchayat Golladhi filed WPMP.No.10465 of 2006 represented by Sarpanch to implead the said Gram Panchayat as a party and this Court on 9.6.2006 ordered the same. The learned counsel also would submit that the said Gram Panchayat filed a suit OS.No.370 of 2005 against the writ petitioner and obtained interim order. The learned counsel also would submit that inasmuch as the writ petitioner is carrying on quarrying of the sand in the village limits of Golladhi in Vegavathi river in violation of the terms and conditions of the lease and quarrying sand within 500 meters of the drinking water supply sources of the village. The Gram Panchayat and certain others were left with no other option except to approach the civil Court and obtain interim order. Hence, in view of the facts and circumstances and also in the light of the fact that it is brought to the notice of this Court now the said interim order was subsequently vacated, respondents 3 and 4 to be given liberty to take appropriate action in the event of the petitioner acting detriment to the interest of the villagers while operating sand quarry operations in violation of the terms and conditions agreed upon.

6. The Writ Petition is filed for a Writ of Mandamus declaring the action of the respondent-authorities in not considering the representation of the petitioner for taking action against the Sarpanch and his followers for unauthorized interference of the petitioner quarrying operations from Vegavathi river of Golladhi village, Badangi Mandal, as arbitrary, illegal and against the principles of natural justice and norms of the public policy and to issue a consequential direction to the respondent-authorities to give protection to the petitioner quarrying operations as per the lease or alternatively to issue proceedings for quarrying the sand from different place and pass such other suitable orders.

7. It is stated that the 3rd respondent had issued a Notification RC.No.765/2005, dated 10.11.2005 calling tenders for quarrying the sand from Vegavathi river and in pursuance of the said Notification, the petitioner participated in the auction held on 25.11.2005 and the petitioner being the highest bidder had been awarded the quarrying rights for a period of two years of Golladhi village of Badangi Mandal, Vizianagaram District vide order Rc.No.765/2005, dated 29.11.2005. It is also stated that in pursuance of the orders issued in favour of the petitioner by the 3rd respondent-authority with the confirmation of the Sand Auction Committee, the petitioner

has been quarrying the sand. While the matter stood thus, the Sarpanch of Golladhi Gram Panchayat and his followers, in order to have personal gain, had been interfering with the petitioner's quarrying operations due to local politics. It is also stated that the said Sarpanch and his followers have been illegally quarrying the sand from Vegavathi river without any authority. Here itself it may be stated that the Gram Panchayat represented by the Sarpanch was not impleaded as a party in the Writ Petition and the said party filed WPMP.No.10465 of 2005 and this Court on 9.6.2006 allowed the same. It is also stated that in fact the Ground Water Department had also issued the clearance and permission for quarrying the sand and the question of water depletion arising in view of quarrying the sand does not arise. It is stated that the petitioner also made a representation to the respondent-authorities that the Sarpanch and the villagers of Golladhi village are unnecessarily interfering with the petitioner as he had given a complaint in regard to the illegal operations being done by them. It is stated that no person is entitled to quarry any sand without valid license and permission from the respondent-authorities and the petitioner being the highest bidder and having entered into the agreement, he alone is entitled to quarry the operations. The 4th respondent had also conducted enquiry and had also issued a notice to the said persons

who filed the objections and found that the petitioner is entitled to quarry the sand and had also recommended for alternative site for quarrying the lease, but till date no action has been taken. It is also stated that the petitioner had given a complaint to all the respondents, but till date no action has been taken against the unauthorized persons who are quarrying the sand and in view of such unauthorized interference, it is stated that the petitioner is left with no other option except to approach this Court.

8. In the affidavit filed sworn in by the Sarpanch of Gram Panchayat it was stated that the writ petitioner was assigned the exclusive rights of quarrying of sand in the river bed of Vegavathi flowing in the village Golladhi, by the 3rd respondent, vide proceedings Rc.No.765/2005-A, dated 29.1.2005. According to the terms of the lease, the lessee shall not carry out sand quarrying within 500 meters to any existing civil structures and irrigation sources and drinking water supply sources etc. If the quarrying is made in violation of the above terms and conditions, there is every possibility of damage to the water supply sources among other dangers. It is also stated that the petitioner-Gram Panchayat provides drinking water facility under Rakshitha Manchineeti Pathakam Scheme to the public of the village by digging a bore well in river Vegavathi bed and pumping the water to

an overhead tank in the village by using motors, and it is the only source of safety water for the purpose of drinking to the public in the village. It is also stated that the writ petitioner under the guise of the lease had carried the sand quarrying in the bed of Vegavathi river in violation of the terms and conditions of the lease and when he gave a go-by to safety precautions to be followed for quarrying sand, the villagers objected to the same as the level of the sand had fallen down and further quarrying is dangerous to drinking water supply source and because of the ensuing summer season it may cause scarcity of water. As the writ petitioner did not heed to the objections raised by the villagers, the Gram Panchayat having no other alternative, filed OS.No.370 of2005 against the writ petitioner on the file of Principal Junior Civil Judge, Bobbili for perpetual injunction restraining the writ petitioner from quarrying sand in the village limits of Golladhi in Vegavathi river in violation of the terms and conditions of the lease and from quarrying sand within 500 meters of the drinking water supply sources of the village and for other reliefs. It is also stated that the Gram Panchayat filed IA.No.1111 of 2005 for ad-interim injunction and the same was allowed on 29.12.2005 and the writ petitioner filed counter and contesting the same. It is stated that curiously the writ petitioner suppressing all these facts, filed the present Writ Petition. It is however brought to the notice of this Court

that the learned Principal Junior Civil Judge, Bobbili, by order dated 28.6.2006, made an elaborate order considering all the aspects and arrived at a conclusion that none of the ingredients for granting of temporary injunction had been showed by the Golladhi Gram Panchayat and two others in the suit aforesaid and ultimately dismissed the application praying for temporary injunction. The said order is placed before this Court.

9. Be that as it may, there are allegations and counter allegations. The stand taken by the writ petitioner is that he is carrying quarrying operations in accordance with the agreed terms and conditions and the Sarpanch of the concerned Gram Panchayat, who is now brought on record, and also his followers being aggrieved of the reports and the complaints made by the writ petitioner for the illegal quarrying operations by them, had thought of unauthorisedly interfering with his operations. On the contrary, the Sarpanch of the Gram Panchayat taking a stand that in public interest only, the villagers had raised this objection. Since the writ petitioner had violating the terms and conditions and by resorting to such methods, the general public interest of the villagers would suffer. These are the respective stands taken by the parties.

10. It is needless to say that virtually on the self-same grounds the Gram Panchayat and certain others had approached a competent civil Court, but the learned

Judge negatived the temporary injunction. In the light of the facts and circumstances it is stated that respondents 3 and 4 are the concerned competent persons to look into the grievances and take appropriate action. It is made clear that the respondents 1 to 9 to see that the 10th respondent-Gram Panchayat represented by the Sarpanch of the village and his followers not to unauthorisedly interfere with the sand quarrying operations of the petitioner provided the petitioner is carrying on such operations in accordance with the terms and conditions agreed upon. At the same time, the grievance ventilated by the 10th respondent also to be looked into inasmuch as the grievance appears to be one of public interest concerned with the villagers. Accordingly liberty is given to respondents 3 and 4 to look into these allegations and redress the same in accordance with law.

11. With the above directions, the Writ Petition is disposed of. No costs.

24.08.2006

SSR

Issue order copy in (03) days.

(BO)